

**SEPARATE STATEMENT OF COMMISSIONER MICHAEL J. COPPS**  
**Approving in Part, Dissenting in Part**

*Re: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Call Processing Modes in CC Docket No. 94-102 and WT Docket No. 99-328 (Adopted June 30, 2004)*

When the FCC takes actions related to public safety and the Nation's 911 system it must be especially careful. Americans rely on 911 in life-threatening circumstances and it is our responsibility to ensure that the system works. Unfortunately, the question of whether a complex technical problem leaves callers in certain circumstances without access to the 911 system remains unanswered.

If a mobile carrier's analog cell phone fails to connect a caller with 911 through that carrier's network, FCC rules require the phone to switch to another carrier's network within 17 seconds. This rule means that even if a caller is in an area that is a dead zone for their carrier, a 911 call remains possible as long as some other carrier provides service in that area.

The Wireless Consumers Alliance and other parties assert that many mobile phone networks are designed in a way that creates a risk that when this switch happens, a 911 call will not be connected to a 911 center, leaving the caller without access to help in an emergency. This problem is known as "lock in". The Commission attempted to fix the problem in 1999. Carriers and manufacturers assert that the FCC's 1999 action did in fact improve the situation, but was written in such a way that did not require them to ensure that the call ever reaches a 911 center, but only that the carrier assign a voice channel to the 911 caller within 17 seconds which may or may not reach the 911 center. The 1999 Order is not a model of clarity. In places it appears to contradict itself, and I cannot say that it clearly requires more than the manufacturers and carriers claim that it does, although today's Order makes the 1999 decision out to clearer than it is.

No matter what the outcome of our retrospective analysis we have the prospective duty to determine whether some 911 calls are failing unnecessarily. If we find that they are failing, we have to duty to fix the problem. Nonetheless, the majority refuses even to agree to explore whether 911 calls are failing, much less to agree to fix the problem if we find that they are failing. Because this refusal may create unnecessary risks, I must dissent in part.